

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5790 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SARFARAJBEN HABIBBEN PATHAN

Versus

TRANSPORT MANAGER

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Appearance:

MR PB MAJMUDAR for Petitioner  
MR MG NAGARKAR for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 13/11/98

ORAL JUDGEMENT

RULE.

Heard the learned Advocates for the parties.

The services of the petitioner workman were terminated by order dated 13.9.1997 as he was found guilty of misconduct on domestic enquiry. An industrial

dispute was raised which culminated into Reference (LCA) 2414/98 in the Labour Court, Ahmedabad. The Court quashed and set aside the order of dismissal and substituted the same by imposing penalty of stoppage of two increments with cumulative effect.

2. It is contended by Mr P B Majmudar, learned Advocate for the petitioner that the penalty imposed is excessive. On the other hand, Mr Nagarkar, learned Advocate submits that the petitioner has already been dealt with lightly. It is pointed out that he has been found guilty of wilful absence. It is pointed out that the workman remained absent during the period from 1.9.1988 to 7.3.1992 i.e. for three years and six months. It is however, not in dispute that after 1992, he has been regularly discharged his duties. This shows that earlier, the absence has been condoned by the respondent-management. In my view, ends of justice would meet if the punishment awarded is substituted with stoppage of three grade increment.

3. In view of the aforesaid, this Special Civil Application is allowed and the award dated 12.2.1998 passed by the Judge, Labour Court, Ahmedabad is modified to the extent that the punishment of stoppage of two increments with cumulative effect is substituted with stoppage of three grade increments. Rule made partly absolute to the aforesaid extent.

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msp.